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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 11th December 2006

No. 10961–li/1(BH-I)-5/2003-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th October 2006 in Industrial Dispute Case No. 6 of 2003 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of M/s Hena Poly Products (P) Ltd., Ganeswarpur, Balasore and their workmen represented through Hena Poly Workers Union, Balasore was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 6 OF 2003

Dated the 18th October 2006

Present:

Sk. Jan Hossain, o.s.j.s. (Sr. Branch)
Presiding Officer, Industrial Tribunal
Bhubaneswar.

Between:

The Management of .. First Party—Management
M/s Hena Poly Products (P) Ltd., Balasore

And

Their Workmen, represented by .. Second Party—Workmen
Hena Poly Workers Union, Balasore.

Appearances:

For the First Party—Management .. None

Representative of the Second Party .. Shri Susanta Kar

AWARD

The Government of Orissa in the Labour & Employment Department, in exercise of powers conferred upon them by sub-section (5) of Section 12 read with clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. 4833—li/1 (BH-1)-5/2003-L.E., dated the 16th May 2003 :—

1. “Whether the workmen of M/s Hena Poly Products Pvt. Ltd., Ganeswarpur, Balasore are entitled to bonus @ 20% for the year 2001-2002 ? if not, what should be the quantum/rate of bonus for the said accounting year ?”
2. “Whether the workmen of M/s Hena Poly Products Pvt. Ltd., Ganeswarpur, Balasore not provided with company accomodation are entitled to House Rent Allowance ? If so, at what rate and from which date ?”
2. The fact in brief :

The second party workmen (hereinafter referred to as the ‘Workers Union’) had raised a dispute with regard to their claim for House Rent Allowance to the workmen, who have not been provided with company’s accomodation and also for payment of bonus @ 20% for the year 2001-2002. On failure of conciliation the State Government referred the disputes to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act.

3. The management filed its written statement *inter alia*, taking the stand that the company had allotted @ 8.33% bonus to all the workmen whose names were borne in the muster roll of the company after taking into account all the permissible deductions under the payment of Bonus Act. The workmen whose houses are at distant places from the factory have been provided with house accommodation. According to it, the demand of House Rent Allowance is made only for a wrongful gain. Most of the workers have their native houses in the nearby villages. The company has submitted that 42 persons including official staff were employed in the factory.

4. On the basis of the aforesaid averments, this Tribunal framed two issues as in the order of reference. The Workers Union adduced oral and documentary evidence. It examined four witnesses and got marked Exts. 1 to 6/2 in support of their claim. The management did not adduce any evidence and choose to remain absent.

5. The Workers Union in support of their claim that they were entitled for payment of bonus @ 20% for the year 2001-2002 have examined one Susanta Pradhan, W. W. No. 3 who was working as a Helper and one Binod Dutta, W. W. No. 4. W. W. No. 3 has stated that the company started its commercial production in the year 1984. It earned profit. According to him, the workers are entitled to get 20% bonus and house rent from the company. The company had rejected the claim of the Workers Union for payment of bonus @ 20% and House Rent Allowance. Similar is the evidence of W. W. No. 4, Shri Binod Dutta. He has exhibited the production report of ‘A’ shift, Ext. 1; ‘B’ shift, Ext. 2; ‘C’ shift, Ext 3 and the Plant production reports marked Exts. 4, 4/1 and 4/2. He also exhibited the Loom Production Reports marked Exts. 5, 5/1 and the tapeline parametre charts marked Exts. 6, 6/1 and 6/2.

6. Both the witnesses deposed in a general way without specifying the quantum of profit earned by the company. W. W. No. 1, Shri Ranjan Kumar Naik is unable to give the profit earned by the company during the year 2001-2002. W. W. No. 2, Shri Damodar Gana deposed in the same manner. There is no acceptable materials on record to show the profits earned by the management and its allocable surplus. The profit and loss account, balance sheet, etc. are not available to know the surplus. In absence of such materials on record, it is held that the workmen are not entitled to bonus @ 20% for the year 2001-2002, as claimed.

7. With regard to the second item of reference, no positive evidence was adduced to justify such stand. The witnesses, namely, W. W. No. 1 and W. W. No. 2 examined in support of the claim have stated that the management had agreed to pay house rent for the accommodation they will take but that was not materialised. No such agreement with management is forthcoming. In absence of any acceptable evidence on this point, this issue is answered in the negative.

The reference is answered accordidngly.

Dictated and corrected by me.

Sk. JAN HOSSAIN

18-10-2006

Presiding Officer
Industrial Tribunal
Bhubaneswar

Sk. JAN HOSSAIN

18-10-2006

Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor

N. C. RAY

Under-Secretary to Government